



**State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2900 FAX (603) 271-2456



August 30, 2002

**Certified Mail  
Return Receipt Requested**

**Letter of Deficiency  
No. WMD 02-33**

Nelson E. Smith, Sr. d/b/a  
NE Smith Excavating  
P.O. Box 99  
Nottingham, NH 03290

**Re: SWC 02-049; 91 McCrillis Road, Nottingham, NH**

Dear Mr. Smith:

On August 14, 2002, and August 21, 2002, the Department of Environmental Services, Waste Management Division ("DES") conducted inspections of your property located at 91 McCrillis Road, Nottingham, NH ("Site"). The purpose of the inspections was to determine your compliance status with RSA 149-M, and the rules adopted pursuant thereto relative to the proper management of solid waste.

During the August 14 inspection, DES personnel observed or learned the following:

1. A pile of blue treated wood;
2. A metal swing set which Mr. Smith indicated had come from the Candia school system;
3. A large fill area at the end of an old logging road. The fill contained pieces of treated wood, metal, a pillow, and a black hose; and
4. A 6"x12" area of stained soil.

During the August 14 inspection, DES personnel issued a Report of Initial Complaint Investigation ("RICI") to Mr. Smith. The RICI advised Mr. Smith to cease transporting solid waste to an unpermitted facility, remove solid wastes at the Site to a permitted solid waste facility, and containerize the stained soil.

During the August 21 inspection, DES personnel conducted test-pitting at the Site. DES personnel observed the following: cardboard, metal, pieces of treated wood, crushed lawn chairs, wire fencing, a bicycle tire, blue pipe, metal coil, electronic equipment, PVC pipe, and assorted metals. DES personnel also noted that the stained soil observed during the August 14 inspection had been dug-up and containerized.

This letter serves to inform you that the above referenced Site conditions constitute violations of RSA 149-M, specifically:

- |                 |   |
|-----------------|---|
| RSA 149-M:9, I  | Operating an unpermitted solid waste facility                   |
| RSA 149-M:9, II | Transporting solid waste to an unpermitted solid waste facility |
| RSA 149-M:9, II | Disposing of solid waste at an unpermitted solid waste facility |

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DES believes that the cited deficiencies can be corrected by completing the following requested remedial actions within the time indicated:

1. **Immediately** cease operating an unpermitted solid waste facility.
2. **Immediately** cease transporting solid waste to an unpermitted solid waste facility.
3. **Immediately** cease disposing of solid waste at an unpermitted solid waste facility.
4. Remove all solid waste at the Site **by October 11, 2002**, to a solid waste facility permitted to handle such wastes.
5. **By October 14, 2002**, submit to DES written confirmation that these steps have been completed, including **copies of all disposal receipts** for the solid waste, at the address below.

Please address all correspondence and reports regarding this matter to


DES, WMD  
6 Hazen Drive  
Concord, New Hampshire 03301-6507

Attention: Kenneth W. Marschner

In the event compliance is not achieved within the time period indicated above, DES may initiate formal enforcement action against you, including issuing an order requiring the deficiencies to be corrected and/or referring the matter to the New Hampshire Department of Justice for imposition of civil and/or criminal penalties. DES reserves the right to pursue administrative fines for the violation(s) noted above.

Your prompt cooperation is appreciated. Please contact Cheryl McGary at (603) 271-3899 if you have any questions or need further assistance.

Sincerely,

  
Kenneth W. Marschner  
Administrator  
Waste Management Programs

Certified Mail RRR#: 7000 1670 0000 0584 4066

CC: DB/File  
Philip J. O'Brien, Ph.D., Director, WMD  
Gretchen Rule, DES Legal Unit  
Arlene Allen, DES Wetlands  
Charles Brown, Town of Nottingham